

§ 82.24

poultry, vehicles, cages, coops, containers, troughs, or other equipment or material if the interstate movement is made by the United States Department of Agriculture for the purposes of research or diagnosis.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.24 Other interstate movements and special permits.

(a) A special permit is required for the interstate movement of items whose movement interstate is restricted under this subpart in a manner or to a destination other than is specifically prescribed by this subpart. A special permit is required for the disinfection of vehicles, premises, cages, coops, containers, troughs, and other equipment by a method other than is specifically prescribed by this subpart. To apply for a special permit, contact the veterinarian in charge for the State in which the items are located. The Administrator may, at his or her discretion, issue special permits if he or she determines the activity authorized will not increase the risk of spreading chlamydiosis interstate.

(b) The special permit will list the name and address of the person to whom the special permit is issued, and the special conditions under which the interstate movement, or cleaning and disinfection, may be carried out.

(1) For an interstate movement, the special permit will also include the following:

- (i) The name and mailing address of the person who will receive the items;
- (ii) The addresses of both the origin and destination of the items;
- (iii) The number and type of items to be moved interstate; and
- (iv) The reason for the interstate movement.

(2) For cleaning and disinfection, the special permit will also include the following:

- (i) The address of the place where the items are located; and
- (ii) The number and type of items involved.

(c) For an interstate movement, a copy of the special permit must accompany the items moved, and copies must be submitted so that a copy is received by both the State animal health offi-

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cial and the veterinarian in charge for the State of destination within 72 hours of the arrival of the items at the destination listed on the special permit.

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§ 82.25 Denial and withdrawal of permits and special permits.

(a) *Denial.* If the Administrator determines that the applicant for a permit or special permit is not complying with or could not comply with this subpart or any special conditions needed to prevent the spread of chlamydiosis, or, in the case of a special permit, that the special permit is not required under this subpart, the Administrator may deny the request for a permit or special permit. If the request is denied, the Administrator will send the applicant a written notice explaining why the permit or special permit was denied.

(b) *Withdrawal.* The Administrator may withdraw a permit or special permit, orally or in writing, if he or she determines the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit. The Administrator may withdraw the permit or special permit without advance notice if he or she determines that the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit in a way that threatens the public health, interest, or safety. The Administrator will send the person to whom the permit or special permit has been issued a written explanation of why the permit or special permit is to be or was withdrawn.

(c) *Appeals.* Denial or withdrawal of a permit or special permit may be appealed to the Administrator within 10 days after receipt of the written notice of denial or withdrawal. The appeal must be in writing³ and must state all of the facts and reasons upon which the person relies to show that the permit or special permit was wrongfully denied or withdrawn. The Administrator

³See footnote 10 to § 82.13.

will grant or deny the appeal, in writing, explaining all of the reasons for the decision, as promptly as circumstances allow. In cases where there is a conflict as to any material fact, the person denied a permit or special permit, or from whom a permit or special permit is withdrawn, shall be given an opportunity for a hearing with respect to the merits or validity of the denial or withdrawal in accordance with rules of practice adopted for the proceeding.

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PART 85—PSEUDORABIES

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AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 44 FR 10309, Feb. 16, 1979, unless otherwise noted.

§ 85.1 Definitions.

For purposes of this part, the following terms mean:

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this title to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C,

and D of this chapter, and to perform functions required by cooperative state-federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS or Service).

Approved differential pseudorabies test. Any test for the diagnosis of pseudorabies that: (a) Can distinguish vaccinated swine from infected swine; (b) Is produced under license from the Secretary of Agriculture under the Virus-Serum-Toxin Act of March 4, 1913, and subsequent amendments (21 U.S.C. 151 *et seq.*) with indications for use in the Cooperative State-Federal Pseudorabies Eradication Program; and (c) Is conducted in a laboratory approved by the Administrator.¹

Approved livestock market. A stockyard, livestock market, buying station, concentration point or any other premises under State or Federal veterinary supervision where swine are assembled for sale or sale purposes, and which has

¹The names and addresses of laboratories approved by the Administrator to conduct approved differential pseudorabies tests are published in the Notices Section of the FEDERAL REGISTER. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, Operational Support, 4700 River Road Unit 33, Riverdale, Maryland 20737-1231. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained at the National Veterinary Services Laboratories assigned to supervise the testing; (b) follows standard test protocols; (c) meets check test proficiency requirements; and (d) will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administrator must give written notice of the proposed withdrawal to the director of the laboratory, and must give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflict.